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**Remarks/Amendments**

**Status of the Claims**

Claims 1 and 2 were originally filed. Claims 2-17 were added in the Amendment of June 22, 2005 and Claims 18-20 were added in the Amendment of November 30, 2005. Claims 1-20 currently stand rejected. Upon entry of this Amendment, Claims 1-20 are pending.

Applicant amended Claims 11, 14-16, and 18 to better present the invention without narrowing the claim scope.

Applicant respectfully requests reconsideration and withdrawal of rejection in view of the following remarks.

**A. Information Disclosure Statement**

Pursuant to 37 C.F. R. §§§ 1.56, 1.97 and 1.98, Applicant submitted an IDS on June 29, 2006. Applicant believes the documents submitted therein are relevant to the patentability of the present invention. In the September 07, 2006 Office Action, the Examiner requested that Applicant point out twenty, or so, of the most relevant documents. Applicant submits herewith, a list of documents that Applicant believes are relevant to patentability.

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|------------------------------|-------------------------------|
| 1. U.S. Patent No. 4,218,954 | 10. U.S. Patent No. 5,667,347 |
| 2. U.S. Patent No. 4,376,605 | 11. U.S. Patent No. 5,713,707 |
| 3. U.S. Patent No. 4,621,230 | 12. U.S. Patent No. 5,779,411 |
| 4. U.S. Patent No. 4,674,931 | 13. U.S. Patent No. 5,820,322 |
| 5. U.S. Patent No. 4,897,005 | 14. U.S. Patent No. 5,918,946 |
| 6. U.S. Patent No. 5,082,409 | 15. U.S. Patent No. 6,023,833 |
| 7. U.S. Patent No. 5,423,646 | 16. U.S. Patent No. 6,206,606 |
| 8. U.S. Patent No. 5,520,445 | 17. U.S. Patent No. 6,202,806 |
| 9. U.S. Patent No. 5,599,148 | 18. U.S. Patent No. 6,450,747 |

For the Examiner's convenience, Applicant organized the above listed references, 1-18, into a supplement IDS on the attached modified PTO Form No. 1449.

It is respectfully requested the Examiner initial the supplemental IDS submitted herewith, as well as, initial all other relevant documents submitted in all prior IDSs. Applicant further respectfully requests the references listed in the supplemental IDS submitted herewith be made of record and appear among the "References Cited" on any patent to issue therefrom.

Applicant believes no fees are due in with the supplemental IDS included herewith. Should any fees be due, the Commissioner is authorized to charge Deposit Account No. 502318.

**B. Claim Rejections: 35 U.S.C. § 102(f)**

Applicant acknowledges that the Examiner has withdrawn the rejection under 35 U.S.C. § 102(f) in view of Applicant's affidavit filed on June 14, 2006.

**C. Claim Rejections: 35 U.S.C. § 102(b)**

Claims 1-6, 8-12, 14-16, and 18-20 stand rejected under 35 U.S.C. § 102(b). The Examiner alleges Claims 1-6, 8-12, 14-16, and 18-20 are anticipated by U.S. Patent No. 4,376,605 to Thomsen (hereinafter referred to as "Thomsen"). Applicant respectfully disagrees and requests the Examiner's 35 U.S.C. § 102 rejections be withdrawn.

The present invention is directed to a novel u-nut. In one embodiment, the invention includes a substrate including a polymer and provided with a flex area with a first substrate segment and second substrate segment located adjacent. See Pg. 3, ll. 9-12. A retainer is located on the first substrate segment and is provided with a first securing member having a first stem, a first angled surface, and a first coupling surface, wherein the first angled surface and the first coupling surface are located at an end of the first stem. See Pg. 2, ll. 18-28. The retainer is further provided with a second securing member having a second stem, a second angled surface, and a second coupling surface, wherein the second angled surface and the second coupling surface are located at an end of the second stem. See Pg. 2, ll. 18-28. In another embodiment, the invention includes a retainer located on the first substrate section, including a first securing member and a second securing member,

wherein the first securing member includes a first angled surface and a first coupling surface and the second securing member includes a second angled surface and a second coupling surface. See Pg. 2, ll. 18-28. In another embodiment, the invention includes, *inter alias*, an installation member located at an end of the substrate that is configured to rest upon an edge of a bracket and provided with a first portion that is generally perpendicular to a plane of at least one of the first or second substrate segments and a second portion that is generally parallel to the plane of at least one of the first or second substrate segments. See Pg. 3, ll. 30 to Pg. 4, ll. 4.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Claim 1 recites, *inter alias*, "the retainer is provided with a first securing member and a second securing member, wherein the first securing member is provided with a first stem, a first angled surface, and a first coupling surface and the second securing member is provided with a second stem, a second angled surface, and a second coupling surface, wherein the first angled surface and the first coupling surface are located at an end of the first stem and the second angled surface and the second coupling surface are located at an end of the second stem." The Examiner alleges Thomsen teaches "the first segment (12) has a retainer comprising a first stem (20) having a 1<sup>st</sup> angled surface (Col. 1 lines 58-59) and a first coupling surface 21 at "an" end thereof (not limited to "distal end")."

Contrary to the Examiner's assertion, Thomsen teaches a "lock ring 21 that connects the free ends of the legs together." Thomsen, Col. 2, ll. 59-61. One skilled in the art recognizes that Thomsen teaches only one securing member (locking ring 21). Assuming *arguendo*, that the locking ring 21 in Thomsen is a first securing member, it cannot also be a second securing member. Thomsen fails to suggest or disclose a second securing member, let alone, a second securing member provided with a second stem, a second angled surface, and a second coupling surface, wherein the second angled surface and the second coupling

surface are located at one end of the second stem. Therefore, Thomsen does not anticipate Claim 1.

The Examiner also alleges "the second segment (11) similarly comprises and acceptor configured to receive the retainer of the first segment (12), said acceptor comprising a second stem (20) having a second angled surface (21) at "an" end thereof. Applicant respectfully points out that Claim 1 recites the retainer, not the acceptor, is provided with a second stem and a second angled surface. For at least this reason, Thomsen does not anticipate Claim 1.

Claim 2 recites, *inter alius*, "a retainer including a first securing member and a second securing member." The Examiner alleges Thomsen teaches "the first segment (12) has a retainer comprising a first stem (20) having a 1" angled surface (Col. 1 lines 58-59) and a first coupling surface 21 at "an" end thereof (not limited to "distal end")." However, Thomsen teaches a "lock ring 21 that connects the free ends of the legs together." Thomsen, Col. 2, ll. 59-61.

Similar to the reasons stated above Thomsen only teaches a first securing member. Assuming *arguendo*, that the locking ring 21 in Thomsen is a first securing member, it cannot also be a second securing member. Thomsen fails to suggest or disclose a second securing member including a second angled surface and a second coupling surface. For at least this reason, Thomsen does not anticipate Claim 2.

The Examiner also alleges "the second segment (11) similarly comprises and acceptor configured to receive the retainer of the first segment (12), said acceptor comprising a second stem (20) having a second angled surface (21) at "an" end thereof. Applicant respectfully points out that Claim 2 recites the retainer, not the acceptor, is provided with a second stem and a second angled surface. Therefore, Thomsen does not anticipate Claim 2.

Independent Claim 14 recites, *inter alius*, "an installation member located one an end of the substrate that is configured to rest upon an edge of a bracket and provided with a first

portion that is generally perpendicular to a plane of at least one of the first or second substrate segments and a second portion that is generally parallel to the plane of at least one of the first or second substrate segments.” The Examiner alleges that Thomsen teaches an “installation member (24) configured to rest upon an edge of a bracket.”

Contrary to the Examiner’s assertion, one skilled in the art recognizes that Thomsen teaches a panel structure 24. See Thomsen, Col. 1, ll. 65-66. The “panel structure 24” is not an installation member located on one end of the substrate. Thomsen fails to disclose or suggest an installation member located at one end of the substrate that is configured to rest upon an edge of a bracket and provided with a first portion that is generally perpendicular to a plane of at least one of the first or second substrate segments and a second portion that is generally parallel to the plane of at least one of the first or second substrate segments. For at least this reason, Thomsen does not anticipate Claim 14.

For at least these reasons, Applicant respectfully submits that the claimed invention is not anticipated by Thomsen. Applicant respectfully requests that the 35 U.S.C. 102 rejection be withdrawn.

**D. Claim Rejections: 35 U.S.C. § 103**

Claims 7, 13, and 17 stand rejected under 35 U.S.C. § 103. The Examiner alleges Claims 7, 13, and 17 are unpatentable over Thomsen in view of U.S. Patent No. 5,779,411 to Vasseur (hereinafter referred to as “Vasseur”). Applicant respectfully disagrees and requests the Examiner’s rejection be withdrawn.

Thomsen in view of Vasseur

Applicant submits that the Examiner has not established a *prima facie* obviousness case. The Examiner simply pieced together references to allegedly combine and formulate the present invention. References must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. See M.P.E.P. § 2141 (citing *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986)). The Examiner’s rejection amounts to a mere “hindsight.”

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01 (Citing *In re mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). Here, the Examiner alleges Claims 7, 13, and 17 are unpatentable over the combination of Thomsen and Vasseur. Applicant submits that there is no teaching, suggestion, or motivation to combine these references.

Thomsen operates on an exactly opposite principle as compared to that of Vasseur, and, in fact, Thomsen teaches away from Vasseur. A prior art reference may be considered to teach away when 'a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.' *In re Gurley*, 27 F.3d 551, 31 USPQ2d 1130 (Fed. Cir. 1994). Thomsen teaches to secure the captive standoff bushing 10, by way of threads 25 and a standard threaded fastener. The use of thread 25 and a standard threaded fastener is to prevent the locking ring 21 from deforming into an oval shape. See Thomsen, Col. 2, ll. 11-19. Vasseur teaches that the purpose of the screw 15 is not to thread into the bore 11, but rather, to expand the bore 11. See Vasseur, Col. 3, ll. 31-35 and Figures 8 and 9. The purpose of Thomsen is to thread the fastener and not expand the bore. Conversely, the purpose in Vasseur is to expand the bore. It is clear that these two references operate on entirely opposite principles of operation. As such, upon reading Thomsen, one skilled in the art, would be discouraged to apply the teaching of Thomsen in combination with Vasseur.

There must be a reasonable expectation of success to modify or combine the prior art to reject claims as prima facie obvious. See M.P.E.P. § 2143.02 (citing *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)). Because Thomsen's teaching is exactly opposite to the teaching of Vasseur, one skilled in the art would recognize that there is no reasonable expectation of success in combining Thomsen and Vasseur.

Furthermore, as admitted by the Examiner, Thomsen fails to disclose "the first and second angled surface to be at an angle of 45 degrees with respect to a first and second stem axis, respectively." Assuming *arguendo*, that Thomsen and Vasseur are combined, because

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Vasseur never discloses or suggests a second securing member as required by the Claims, Thomsen's defect cannot be cured by Vasseur. Accordingly, the Examiner's proposed combination of Thomsen and Vasseur does not disclose or suggest each and every element of the claimed invention. Therefore, for at least these reasons, the Examiner's obviousness rejections must fail.

For at least these reasons, Applicant respectfully submits that the claimed invention is non-obvious. Applicant respectfully requests that the 35 U.S.C. § 103 rejection be withdrawn.

#### Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration, withdrawal of rejections, and allowance of all Claims now present in the application.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to Deposit Account No. 502318.

Dated: March 07, 2007

Respectfully Submitted,

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